

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

IRMA GARZA
Plaintiff,

Vs.

**THE CITY OF EDINBURG, RICHARD
MOLINA, DAVID TORRES, JORGE
SALINAS and GILBERT ENRIQUEZ**
Defendants.

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CIVIL ACTION NO. 7:18-CV-267

**PLAINTIFF’S RESPONSE TO DEFENDANT CITY OF EDINBURG’S MOTION TO
STRIKE STATEMENT OF CHANGES TO DEPOSITION OF ROBYN ZAYAS**

COMES NOW, IRMA GARZA, Plaintiff, and files this, Plaintiff’s Response to Defendant City of Edinburg’s Motion To Strike Statement of Changes to Deposition of Robyn Zayas, and in support thereof would show as follows:

**I.
BACKGROUND**

This is a political retaliation employment case, where Plaintiff Irma Garza was terminated from her employment after serving for approximately ten (10) years as the Director of Public Information for the City of Edinburg, Texas. At the time of her termination, the Edinburg City Council had recently conducted elections which resulted in the seating of a new political majority. The Plaintiff was terminated because she refused to support this new political majority (Molina Faction) during their campaign and to reward a political supporter of the Molina Faction, Ms. Cary Zayas.

Plaintiff noticed the deposition of Robyn Zayas, who worked for the political campaigns of the members of the Molina Faction running for office in November of 2018. Robyn Zayas is the younger sister of Cary Zayas, who was hired to replace the Plaintiff. The deposition took place

on April 23, 2019. On May 30, 2019, Ms. Zayas prepared a statement of changes to her deposition testimony. Ms. Zayas' stated reasons for her changes was that she "was extremely nervous and afraid to talk about [her] sister", and that she "was nervous and couldn't put events... in order". *See* Exhibit A. It is apparent from the context of the changes that the stated reason(s) apply to all of Ms. Zayas' changes.

II. ARGUMENTS & AUTHORITY

Federal Rule of Civil Procedure Rule 30(e) allows deponents to make changes to depositions, including changes to the substance of the witness's testimony, when accompanied by a signed statement reciting the reasons for the change.

In their Motion to Strike, Defendants aver that the witness included a statement of her reasons for the changes, for only the first two of the 19 changes to her testimony, and thus fails to comply with Rule 30(e) for the balance of the changes. (Doc. #38, p. 3). However, it is clear from the stated reason(s) that the statement applied to all her listed changes. A review of the changes shows that they each implicate the witness's sister (Cary Zayas) in a conspiracy to violate the Plaintiff's First Amendment rights. *See* Exhibit A. Clearly, the witness's stated reason that she "was extremely nervous and afraid to talk about her sister", applies to all changes.

The Court should apply the broad, least restrictive interpretation of Rule 30(e) because it is consistent with Rule 30(e)'s plain language, which expressly contemplates "changes in form or substance" accompanied by a signed statement reciting the reasons for the changes. FED. R. CIV. P. 30(e). As written, Rule 30(e) makes provision for changes in substance that are made for legitimate reasons.

court to re-open the witnesses deposition, this Court should take the least restrictive approach and allow the substantive change, as contemplated by Rule 30(e).

**III.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, for the reasons shown, the Plaintiff prays that the Court deny Defendant, City of Edinburg, Texas' Motion to Strike Statement of Changes To Deposition of Robyn Zayas, and furthermore grant Plaintiff all relief to which she may have shown to be justly entitled.

Respectfully submitted,

FLORES & TORRES, L.L.P.

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